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REG. ITEM #11

2/28/78

REPORT ON JARVIS-GANN INITIATIVE



#78/78

C. E. DIXON  
COUNTY ADMINISTRATOR

DAVID R. ANDERSON  
ASSISTANT COUNTY ADMINISTRATOR

## COUNTY OF SAN JOAQUIN

COURTHOUSE, ROOM 707  
222 EAST WEBER AVENUE  
STOCKTON, CALIFORNIA 95202  
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February 27, 1978

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UNIVERSITY OF CALIFORNIA

### REPORT ON JARVIS-GANN INITIATIVE

The voters of California will decide the fate of the Jarvis-Gann Initiative, Proposition 13, at the June 6, 1978 election. Its passage would substantially revise the relationships between property taxes and services rendered; the relationships between State control and local control; and the relationships in the amount of taxes paid by individuals compared to the taxes paid by businesses in California at both the State and local levels.

The need for Property Tax Reform in California is long overdue and the qualification of Jarvis-Gann for the ballot clearly reflects the dissatisfaction of the voting public for the existing property tax structure.

The Legislature is currently moving in the direction of substantial homeowner's tax relief and hopefully will pass a meaningful bill prior to the June 6th election date (SB 1-Behr).

We would also like to see passage of SB 1569-Rodda which would provide replacement revenues, subject to passage of the Jarvis-Gann Amendment, and would establish the rates of increases in other taxes required to offset the reduction in real property taxes.

The enactment of the Behr bill for Property Tax Relief and approval of the Rodda Legislation at an early date will be of great assistance to the voters in evaluating their alternative actions relative to Jarvis-Gann.

We also hope that the voters will have the opportunity to gain a more complete understanding of the affects of Jarvis-Gann through analyses such as this prior to the June Primary.



Property tax is a complex issue and the proposed remedy of Jarvis-Gann contains many ramifications which should be made known to and understood by the voters prior to voting their judgment on this Initiative.

Sincerely,

A handwritten signature in dark ink, appearing to read 'C E DIXON', with a long horizontal stroke extending to the right.

C. E. DIXON  
County Administrator

CED:mhs  
Attachments

cc: County Assessor  
Auditor-Controller  
Superintendent of Schools  
Treasurer & Tax Collector  
County Counsel  
Public Works Director  
Local Health Officer  
Board Clerk for 2/28/78 Agenda

#78/78





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## COUNTY OF SAN JOAQUIN

COURTHOUSE, ROOM 707  
222 EAST WEBER AVENUE  
STOCKTON, CALIFORNIA 95202  
'AREA 209' 944-2611

February 25, 1978

### ANALYSIS OF JARVIS-GANN INITIATIVE

#### INTRODUCTION TO PROPOSITION 13

In keeping with the instructions from your Board, we submit herewith our analysis of the Jarvis-Gann Property Tax Initiative which will be before the voters as Proposition 13 at the June 6, 1978, California Primary Election.

The intent of this report is to provide a better understanding of the probable affects of implementing this proposed amendment to the California Constitution by adding Article XIII A, thereto.

Although the proposed amendment is a brief one, its ramifications on the complex system of taxation and local government in California are most extensive and in many areas, totally unpredictable pending lengthy legislative clarification and extensive judicial decisions which may well be finally made by the United States Supreme Court.

Because of the complexity of the proposed amendment, we have sought maximum input for the analysis and have been substantially aided by the following:

Robert Shellenberger  
Paul Heurlin  
Dr. Gaylord Nelson  
John Prowse  
Gerald Sherwin  
William Ward  
Dr. Jack Williams

Assessor  
Auditor-Controller  
Superintendent of Schools  
Treasurer & Tax Collector  
County Counsel  
Director of Public Works  
District Health Officer





A reading of Proposition 13 (Attachment I) indicates the following actions (paraphrased and emphasis added).

Section 1.

- (a) Limits ad valorem tax on real property to 1% of full cash value which shall be collected by the County and apportioned according to law to districts.
- (b) exempts from the 1% limit any ad valorem taxes or special assessments to pay any indebtedness approved by the voters prior to July 1, 1978.

Section 2.

- (a) Defines full cash value as the County Assessor's value of real property as shown on the 1975-76 tax bill, or thereafter, the appraised value of real property when purchased, newly constructed, or following a change in ownership after the 1975 assessment, real property not assessed up to the 1975-76 tax levels (probably means full cash value levels) may be reassessed to reflect that (1975) valuation.
- (b) The fair market value base (probably intended to mean the same as full cash value)\* may reflect the year-to-year inflationary rate not to exceed 2% for any given year or reduction (unclear as to whether the 2% limitation applies only to increases or also to reductions) as shown in the CPI or comparable data (authority for selecting CPI or comparable data is not set forth).

Section 3.

Limits increases in State taxes after June 6, 1978, (if passed) to measures approved by a two-thirds vote of both houses of the State Legislature, prohibits any new ad valorem, sales or transaction taxes on the sale of real property.

\*This distinction is very important in that the "full cash value" definition as defined in Section 2(a) is an arbitrary value which would have an entirely different meaning from that of "fair market value".



Section 4.

Cities, counties and special districts, by a two-thirds vote of the qualified electors of such district\* may impose special taxes on such district except for ad valorem, sales or transaction taxes on the sale of real property.

Section 5.

Effective date of article is July 1, following passage except for Section 3 which becomes effective immediately upon passage.

Section 6.

Provides that if any part is held to be unconstitutional, the remaining parts will remain in full force and effect.

\* This wording would seem to confirm the intention of Section 1(a) that cities and counties are considered as districts under the article.





EXISTING PROPERTY TAX STRUCTURE IN SAN JOAQUIN COUNTY

For 1977-78, the total assessment roll for the County was \$1,436,438,859. Total property tax collections (real and personal) are projected at \$135,989,463 (including State reimbursements for homeowners and business inventory exemptions) for an average tax rate of \$9.4671 per hundred dollars of assessed valuation. Since for property tax purposes in California, property is assessed at 25% of market value, we can divide the \$9.4671 average rate by four and find that property taxes in the County this year will approximate \$2.3667% of the market value.

Using the 1977-78 property valuation and a one per cent maximum tax as proposed by Proposition 13 would produce only 42.25% of the \$135,989,463 or \$57,459,527. However, for comparison purposes, we should also factor in an allowance for the limited value growth which would be imposed since the 1975-76 valuation. Although we have no way of determining this figure at this time, we estimate it would approximate 5% a year, or 10% to date. This would further reduce countywide property tax revenues to \$51,713,574 or to approximately 38% of the actual anticipated property tax revenues for 1977-78.

This comparison shows that property tax revenues available for local government services would be reduced by approximately 62% under the limitations proposed under Proposition 13.

Although the 62% reduction is a good estimate for the County's countywide tax rate, it does not hold true for less than countywide rates, such as those levied by cities, school districts, and special districts.

Due to the variations in these less than countywide charges, the County is broken down into 816 separate tax code areas.

The lowest tax rate within the County is found in tax code area 85-003 and totals \$7.8624 per hundred dollars of assessed valuation, for an equivalent rate of 1.97% of market value.

The highest tax rate within the County is found in tax code area 96-072 and totals \$14.8439 per hundred dollars of assessed valuation, for an equivalent rate of 3.71% of market value.

Since the Proposition 13 limit of 1% is lower than the equivalent rate in each of the tax code areas, all 816 tax code areas would, in effect, be taxed at the same combined rate for all real property. However, the average revenue reduction of 62% would not necessarily apply to those districts levying less than countywide rates.





For example, the revenue reduction applied to County and district rates in code area 85-003 (where the combined rate is \$7.8624) would be only 49%, while the reduction in code area 96-072 (where the combined rate is \$14.8439) would be 73%.

Thus, those cities, special districts, and school districts located in tax code areas with relatively high combined tax rates would suffer greater revenue reductions than those taxing agencies in the lower tax rate areas.\*

Attachment II illustrates the individual tax rates levied in code area 85-003 and 96-072.

The higher rate in code area 96-072 results from higher school charges, charges for local fire protection, and charges for street lighting and sewer service provided by County Service Area #15. Property in tax code area 85-003 is not afforded public fire protection, street lighting or sewer services. However, under Proposition 13, real property in each district would be taxed at the same combined rate of \$4 per hundred dollars of assessed valuation in order to yield a total tax of 1% of "full cash value".

This means the real property taxpayer in code area 85-003 would pay an equivalent County property tax rate of \$1.7707 (\$3.4720 less 49%), and the real property taxpayer in code area 96-072 would pay an equivalent County property tax rate of \$.9374 (\$3.4720 less 73%).

It also means that real property taxes paid by the taxpayer in different districts and code areas would no longer be related to the services received. Thus, real property taxpayers in an area without fire protection, street lights and sewer services would be paying the same combined real property tax as the taxpayers with property receiving the additional benefits.

This situation while encouraging each property taxing agency to charge its maximum rate in order to maximize its percentage share of the allowable tax, would raise some interesting constitutional questions among the taxpayers.

It should also be noted that personal property, including inventories, is apparently not affected by the 1% limitation and, therefore, would be taxed at rates from two to three times the rate applied to real property.

\* Revenue and Taxation Code Section 4653.4 directs the pro rata distribution of taxes in accordance with the individual tax rates (see page 6 of County Counsel's letter attached).



Analysis of Jarvis-Gann Initiative

February 25, 1978

Page Six

Local property taxing agencies in San Joaquin County for 1977-78 are as follows:

6	Cities
18	School Districts
2	Community College Districts
53	Districts Governed by Local Boards
<u>81</u>	Districts and Areas Governed by the Board of Supervisors
160	Total

As indicated above, losses in revenue (had Proposition 13 been effective this year) would have resulted in property tax revenue reductions of from 49% to 73% for these property taxing agencies.

Many of the smaller service agencies now rely totally on property tax revenues to cover operations. Obviously, many districts providing essential services would soon cease to operate and their services would terminate if faced with the Proposition 13 limitations.

Although the possibility of State action to replace lost revenue is possible, such subventions would probably not be available to local services which are not provided on a statewide basis. Therefore, even if other tax revenues should be allocated by the State, we would expect to see a substantial effort to equalize services in accordance with statewide dictates, a substantial increase in State administrative costs and finally, a critical weakening of the home rule concept as it affects local elections on services and support levels.

Your Board has long urged the State Administration and the State Legislature to remove from the property tax rolls the cost of supporting Health and Welfare programs. The removal of these service costs for State-mandated programs along with greater State support for schools would have drastically lowered property taxes and would have more fairly related local property tax payments to those property related services elected by the local property owners.

Unfortunately, Proposition 13 proposes no shift to a more appropriate funding source for the high costs of education, health and welfare, but rather perpetuates the problem while effectively eliminating (through its affect on special districts) the related costs of localized services to the area of benefit.





ANTICIPATED AFFECTS ON COUNTY SERVICES

Attachment III illustrates the projected distribution of 1977-78 property tax funds within the County. The first section deals with services provided by the County budget.

Among the County Budget areas the support of library services in Escalon, Manteca, Ripon, Tracy and the unincorporated areas of the County would be hardest hit under the proposals of Proposition 13.

Presently the Library service district has no alternative source of support and could expect a reduction in operating revenue of approximately 62% unless replacement revenues were made available by the State.

The roads, bridges and ferries in the unincorporated areas of the County are supported by the approximate \$2.5 million of road district property taxes and about \$8 million in other road fund revenues. The overall affect of Proposition 13 this year would have been to reduce road district revenues by approximately 62% or \$1.5 million.

Twenty-seven per cent of the countywide total budget of \$156,428,546 or \$41,859,786 is financed this year from property taxes. Much of the other revenue of \$114,568,760 is of course restricted in its use by Federal and State laws and must be used to fund specific services such as health, welfare and roads.

Applying Proposition 13 limits to the \$41,859,786 of County property tax revenues would reduce County revenues by 62% or about \$26 million. As indicated above this reduction could not be applied equally to all programs or even distributed in accordance with local priorities due to Federal and State funding restrictions.

Additional restrictions are found in those mandated expenditures, which, although not fully funded by State and Federal subventions, require local county tax dollars to be sent to the State to support State and Federal programs such as:

Medi-Cal	\$ 8,715,630
SSI/SSP	<u>3,693,684</u>
	\$12,409,314





as well as those requiring local expenditures of local tax dollars such as:

AFDC Payments	\$7,250,113.
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Another way of considering the offset of these three mandated expenditures is to recognize that this year these programs equal 47% of the County's property tax revenue (\$19.66 million divided by \$41.86 million). If proposition thirteen had been in effect, and after allowing for a 10% reduction in our State assigned shares resulting from the roll back in assessed values, these three programs would have equaled 71% of the county's property tax revenues (\$18.46 million divided by \$26 million).

Thus the areas of County services which could be cut back as a result of the \$26 million reduction in property tax revenue to the County are quite limited under existing State and Federal law, and the \$26 million reduction could neither be distributed equally among all county programs nor apportioned solely on the basis of local priorities.

Because of these limitations, it is anticipated that a disproportionately large part of the reduction would result in eliminating entire areas of service unless replacement revenues are forthcoming.\*

Although as we have indicated above, State assistance to local districts which provide property related services would not appear to be likely, we believe the State would, from other tax revenues, support essential services as set forth in SB 1569 - Rodda (see Attachment IV).

However, as suggested earlier this would undoubtedly increase the total cost of providing services, for as the State becomes more involved in subventions, it necessarily becomes more involved in overseeing and thus expands the bureaucracy and the costs. For this reason we believe the interests of all taxpayers could be better served by directing the full responsibility for State funding to those existing programs under State control (for example, in the areas of health and welfare) and restricting State expansion into new fields until the first condition is fully met.

\* On February 6, 1978, Mr Harry Hufford, Chief Administrative Officer of Los Angeles County, estimated that if Proposition 13 were implemented without replacement revenues that about 30% of the County work force, or 20,000 employees, would be terminated. That estimate was based upon a projected 58% reduction in property tax revenues as opposed to our County estimate of 62%.



PROBABLE IMPACT OF PROPOSITION 13

As stated in our introduction, the impact of this proposed Constitutional Amendment on the existing complex system of taxation and local government in California is most extensive and in many areas, totally unpredictable.

In this section we will identify the more important questions which we believe deserve special consideration and/or clarification -- recognizing that final interpretations will undoubtedly be made by the courts should the Initiative be passed.

The ambiguities created by the poorly drafted language of Proposition 13 are well addressed by Gerald Sherwin, County Counsel, in Attachment VI. Therefore, this section will not attempt to duplicate Mr. Sherwin's comments on drafting deficiencies, but will rather identify problem areas based upon what we project to be the most likely interpretations.

Our comments are presented in relationship to the order of the Proposition sections.

SECTION I (a)

This provision will reduce the real property taxes paid in the State of California from approximately \$11 billion per year down to approximately \$4 billion per year.

Of this \$7 billion reduction, about \$2.5 billion would accrue to homeowners and about \$4.5 billion would accrue to businesses, rental properties and other non-residential holdings.

It is anticipated that the reduction in real property tax revenues will be offset by increases in other fees and taxes. In the case of services provided by local districts such as sewer and water, billings will be made to customers rather than through the application of a district-wide property tax rate.

State replacement revenues will probably be produced in a manner similar to S.B. 1569 - Rodda (see Attachment V). Replacement revenues under this bill beginning in F.Y. 1979-80 are estimated as follows:

Budget Surplus	\$1,200 Million
Current State Property Tax Reimbursements	800
One cent increase in sales tax	1,100
20% increase in income tax	1,100
40% increase in bank corporation tax	850
7% tax on professional services	<u>2,200</u>
	\$7,250 Million

Replacement revenues under S.B. 1569 for F.Y. 1978-79 would be limited to an estimated \$3,200 million from the State surplus.





A comparison between these sources of replacement revenues and property tax savings indicates a substantial shift from taxes paid by businesses to taxes paid by individuals.

Although proponents of Proposition 13 imply that the cost of government services and the level of government spending will be reduced upon the passage of Proposition 13, it should be noted that no such restrictions are contained in the proposed amendment. In fact, it is our opinion that through the introduction of more State interference in local matters, government costs for services rendered will actually increase. This, of course, may be an acceptable trade-off to supporters of a reduced real property tax levy.

Since the proposed concept limits valuations and total collections rather than individual tax rates, it will encourage each property taxing agency to seek a maximum rate in order to maximize its apportioned share of property tax collections. This, in turn, will result in increasing property taxes on personal property such as equipment and business inventory.

Since total real property taxes will no longer be based upon service levels, the cost benefit relationship of the combined property tax rate will be eliminated. This will further shift the control of local services to Sacramento thereby increasing the cost of providing services and decreasing the effectiveness of local government.

This same point raises the constitutional question whereby properties of equal values would in effect be paying different tax rates to support common services such as Countywide and/or Special District functions.

Since the basis for distribution of Federal Revenue Sharing and Anti-Recession Funds to counties is based in part on local tax effort, County government could expect further revenue reductions in this area.

The affect of this section on the homeowner's exemption and agricultural exemption is not clear. It is conceivable, however, that certain landowners holding Williamson Act contracts would be bound by 10-year restrictions on their properties while receiving no direct tax reduction benefits. Another interpretation is, of course, that all Williamson Act assessment provisions would be voided by the enactment of this Initiative.



Although we assume replacement revenues in areas of essential services, it appears that library services in the unincorporated areas and street lighting services would be seriously reduced, and in some cases terminated, pending future State legislation.

#### SECTION I (b)

This section creates severe problems regarding the collection of property tax revenues for the payment of outstanding 1915 series improvement bonds which were not approved by an election, and effectively prevents the use of such bonds in the future. If the bonds are not payable from revenues levied against the benefited property, then the liability may be passed on to all taxpayers within the County.

We doubt this is the intent of the proposed amendment. However, since many series 1915 bonds have been issued with the approval of the majority of the landowners rather than through an election by the voters, this appears to create a substantial problem.

#### SECTION II (a)

This section raises a substantial constitutional issue wherein the owners of two properties of identical value in the marketplace could be required to pay substantially different taxes because the full cash value of one property would be as shown on the 1975-76 tax bill, whereas the full cash value of the second property would represent the appraised value at the time the property was last purchased or newly constructed.

This section would further, over the years, shift the percentage of property taxes paid by the homeowners to the benefit of corporate holdings. This would come about first because it is estimated that the average residential property is resold once every seven years, a frequency much higher than that found in corporate holdings, and secondly, due to the fact that a sale of corporate stock, which represented the ownership of property, would not result in a reevaluation of that property.

This section in effect freezes the value of real property at the 1975-76 level, except when thereafter sold or when property is newly constructed. It makes no provision for either real property value increases or decreases based upon the marketplace.





Even after discounting the vague term "newly constructed" the opportunity for substantial increases in value remaining unrelated to the property tax seems most unfair. An extreme example would be represented by substantial increases in the value of mineral rights resulting from a combination of price deregulation (natural gas) and the marketplace. Further consider the case of a substantial oil discovery which could multiply the value of the real property many times and yet result in no increase in property taxes.

In the interest of reducing property taxes, a limit on rates may be advisable, however, establishing arbitrary values that have no relation to the marketplace appears to be, if not unconstitutional, totally unfair and ill advised.

As indicated above, this section provides no guidance for recognizing the loss of property values, whether such loss might occur from a sudden disaster such as fire and flood or through a more gradual decline in value.

## SECTION II (b)

The only relief to the frozen values established in Section II are contained herein and provides that property values may reflect year-to-year inflationary rates, not to exceed 2% per year. It appears that the 2% figure would apply across the board to all properties to include those occasional properties which might be on a declining value trend.

The long term affect on local government, should inflation remain above 2% a year, would be detrimental and would further erode the functions of local control in favor of State control.

## SECTION III

The requirement for a two-thirds vote by both Houses of the Legislature to pass tax increase bills will obviously make it more difficult to pass tax increases. It will, however, provide a uniform requirement for achieving tax increases in the legislature in keeping with the two-thirds requirement (see Section IV) of all eligible voters at the local level.



#### SECTION IV

This section may be read to authorize cities, counties and special districts, by a two-thirds vote of the qualified electors to impose special taxes other than real property taxes. Presently legislation generally controls the type of tax which local agencies may impose. However, a practical application of allowing overlapping districts to impose any number of taxes such as sales, income or business is totally unrealistic.

Certainly sales and income taxes should be based on not less than a statewide area to minimize the cost of collection, minimize the illegal avoidance of payments, and to discourage the relocation of taxable transactions to neighboring districts within a state for the purpose of legal tax avoidance.





## CONCLUSION

Proposition 13 is so poorly drafted that it will result in lengthy litigation which, in turn, will result in increased costs to the State's taxpayers and expensive interruptions of vital public services.

If held to be constitutional, Proposition 13 will reduce Statewide real property taxes approximately \$2.5 billion per year for homeowners and approximately \$4.5 billion per year for businesses, landlords and other properties. This will result from a reduction in the Statewide average real property tax rate from approximately \$10.73 per hundred dollars of assessed valuation to approximately \$4.0 per hundred dollars of assessed valuation.

In order to fund existing local services, substantial increases will be required in sales tax, personal income tax and the banks and corporations tax and the resulting tax shift will fall more heavily on individual taxpayers, whether they be homeowners or renters, than upon business taxpayers.

The reevaluation provisions of the proposal, relating to real property, will also benefit corporations more than individuals.

Local bond issues approved by a vote of the electors and supported by property tax levies, will no longer be possible for any purpose. This limitation, of course, includes school construction, neighborhood and area-wide improvements.

Even though replacement funding later becomes available to continue essential local services, some severe interruptions in service will probably occur with resulting added costs to the taxpayers.

As the State becomes more involved in funding local services, the costs of providing these services will increase and the options open to local electors and local government will decrease.

Nothing is contained within the proposed amendment which requires an overall reduction in either tax funds collected or tax funds expended. Furthermore, because of the shift of responsibility from local government to the State government, the total costs to taxpayers for providing local services will be increased.

Historically, even the best thought out legislation requires emergency follow-up legislation to clarify and correct the original language. In the case of a constitutional amendment, corrections can only be made by a vote of the people. Furthermore, a proposition to be voted on must qualify for the ballot 131 days before either a Primary (June) or General (November) Election. Since June 29, 1978 is the last day to qualify for the November 7, 1978 election, corrections could well be delayed until the next election which will be held in June of 1980. This two year waiting period could prove very costly both in terms of tax dollars and interrupted services.



# ATTACHMENT I

## INITIATIVE CONSTITUTIONAL AMENDMENT-- PROPERTY TAX LIMITATION

LIMITS AD VALOREM TAXES ON REAL PROPERTY TO 1% OF VALUE EXCEPT TO PAY INDEBTEDNESS PREVIOUSLY APPROVED BY VOTERS. ESTABLISHES 1975-76 ASSESSED VALUATION AS BASED VALUE OF PROPERTY FOR TAX PURPOSES. LIMITS ANNUAL INCREASES IN VALUE. PROVIDES FOR REASSESSMENT AFTER SALE, TRANSFER, OR CONSTRUCTION. REQUIRES 2/3 VOTE OF LEGISLATURE TO ENACT ANY CHANGE IN STATE TAXES DESIGNED TO INCREASE REVENUES. PROHIBITS IMPOSITION BY STATE OF NEW AD VALOREM, SALES, OR TRANSACTION TAXES ON REAL PROPERTY. AUTHORIZES SPECIFIED LOCAL ENTITIES TO IMPOSE SPECIAL TAXES EXCEPT AD VALOREM, SALES AND TRANSACTION TAXES ON REAL PROPERTY. FINANCIAL IMPACT: WOULD RESULT IN THE LOSS OF LOCAL PROPERTY TAX REVENUES OF \$7 BILLION TO \$8 BILLION ANNUALLY AND A REDUCTION IN STATE COSTS OF ABOUT \$700 MILLION IN 1978-79 AND \$800 MILLION ANNUALLY THEREAFTER.

### THE AMENDMENT

That Article XIII A is added to the Constitution to read:

#### Section 1.

- (a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.
- (b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective.

#### Section 2.

- (a) The full cash value means the County Assessors valuation of real property as shown on the 1975-76 tax bill under "full cash value", or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that valuation.
- (b) The fair market value base may reflect from year to year the inflationary rate not to exceed two percent (2%) for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction.





### Section 3.

From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

### Section 4.

Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district.

### Section 5.

This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article.

### Section 6.

If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.



ATTACHMENT II  
FY 1977-78  
SAN JOAQUIN COUNTY

TAXING AGENCIES WITHIN CODE AREAS  
85-003 and 96-072

CODE AREA 85-003

<u>TAXING AGENCY</u>		<u>RATE</u>
San Joaquin County	*	3.4720
Road District #3	*	.4000
Library	*	.1657
Tracy Joint High		1.5534
Holt Elementary		.1541
Tracy Area Wide Education		1.0077
Venice Elementary		.0039
Lodi Unified		.0332
San Joaquin Delta College	*	.6562
Miscellaneous Education		.1481
San Joaquin Local Health	*	.1681
Flood - Administration	*	.0200
San Joaquin Mosquito Abatement	*	.0800
Total Code Area Rate		<u>7.8624</u>

CODE AREA 96-072

San Joaquin County	*	3.4720
Road District #3	*	.4000
Library	*	.1657
Linden Unified		4.5311
San Joaquin Delta College	*	.6562
Miscellaneous Education		.1531
San Joaquin Local Health	*	.1681
Waterloo Morada Fire		.6271
Flood - Administration	*	.0200
San Joaquin Mosquito Abatement	*	.0800
County Service Area #15		<u>4.5706</u>
Total Code Area Rate		<u>14.8439</u>

\*Rates common to both area total 4.9620





## ATTACHMENT III

FY 1977-78

## SAN JOAQUIN COUNTY

## LOCAL PROPERTY TAX LEVIES

<u>Entity</u>	<u>Tax Rate</u>	<u>Amount</u>	<u>Percent</u>
San Joaquin County    Secured	3.4720	\$39 969 535	
Unsecured	3.5973	3 262 609	
		<u>\$43 232 144</u>	
Road Districts        Secured	.4000	\$ 2 338 474	
1, 2, 3, 4, 5        Unsecured	.4000	126 156	
		<u>\$ 2 464 630</u>	
Library                Secured	.1673	\$ 1 153 296	
Unsecured	.1822	71 855	
		<u>\$ 1 225 151</u>	
Total affecting County Budget		<u>\$46 921 925</u>	34.50
 <u>Cities</u>			
Stockton	1.9650	\$ 8 032 372	
Lodi	1.6800	1 708 078	
Manteca	1.8620	857 693	
Tracy	2.0660	951 508	
Ripon	1.5900	319 535	
Escalon	1.8240	<u>113 413</u>	
		\$11 982 579	8.81
 <u>Schools</u>			
Special School Taxes		\$ 1 503 455	
Elementary Schools		4 633 362	
High Schools		3 662 596	
Unified Schools		48 396 262	
Community Colleges		<u>8 080 728</u>	
Total School Taxes		\$ 66 276 403	48.74



Attachment III  
FY 1977-78  
San Joaquin County  
Local Property Tax Levies

Page Two

<u>Entity</u>	<u>Amount</u>	<u>Percent</u>
<u>Special Districts</u>		
Governed by the Board of Supervisors (75)	\$ 1 469 322	
Governed by Local Districts (53)	9 339 234	
	<u>\$ 10 808 556</u>	7.95
Total County Taxes	\$135 989 463	100.00



ATTACHMENT IV  
EXCERPT FROM SB 1569 - RODDA  
QUALIFIED REIMBURSIBLE SERVICES

982.4. "Essential public services" as used in this part shall mean services provided for the public by a local jurisdiction, the collectible tax revenues of which have been reduced as a result of the passage by the voters of Proposition 13, known as the Jarvis-Gann Initiative, at the June 1978 primary election, which fall into any of the following categories:

(1) Fire protection, including but not limited to, the operation of fire departments, employment of personnel, acquirement and maintenance of necessary equipment.

(2) Public health, including but not limited to, the operation of public hospitals, health clinics, and other public health services, and the abatement of insects and control of public health nuisances.

(3) Police protection, including but not limited to, the operation of police and sheriff's departments, employment of personnel, acquirement and maintenance of necessary equipment.

(4) Water, including but not limited to, operation and maintenance of facilities to deliver fresh water and/or irrigation water.

(5) Sewerage, including but not limited to, the operation and maintenance of sewer lines and waste water treatment facilities.

(6) Streets and highways, including but not limited to, construction and maintenance of streets and highways and traffic control devices.

(7) Criminal justice, including but not limited to, operation of jails and correctional facilities, operation of courts, operation of public legal services, such as district attorney's offices and public defender's offices.

(8) Education, including but not limited to, public school programs, employment of personnel, and construction and maintenance of facilities.

(9) Housing, including but not limited to, programs and/or participation in programs to provide adequate housing for the public.

(10) Waste disposal, including but not limited to, collection of refuse and maintenance of waste disposal facilities.

(11) Welfare, including but not limited to, operation of general assistance programs and participation in similar programs, such as AFDC, SSI/SSP.

(12) Public transit, including but not limited to, operation of public transit systems.

(13) Other programs deemed by the Board of Control to directly affect the public health, safety and welfare.





ATTACHMENT V

EXCERPT FROM SB 1569 - RODDA

LEGISLATIVE COUNSEL'S DIGEST

SB 1569, as introduced, Rodda. Financing local agencies. Existing law does not provide for state funds to be appropriated for payment to local agencies for the provision of essential public services.

This bill would establish the "H-P" Fund in the State Treasury to be used for payments to local agencies for essential public services for which there is a resulting deficiency in funding, if the proposed constitutional amendment known as the Jarvis-Gann Initiative is approved by the voters.

The "H-P" Fund would consist of an appropriation of an unspecified amount from the General Fund representing the existing surplus, plus revenues representing a 2% rate of sales and use tax, a 20% surcharge in the personal income tax and a rate of 5% of bank and corporation taxes.

Existing California State Sales and Use Tax Law imposes a tax, at the rate of 4-3/4%, on the gross receipts from the sale, use or other consumption in this state of tangible personal property, with specified exemptions, and provides that the net revenues from such taxes shall be transferred to the General Fund.

This bill would raise such state tax rates to 5-3/4% and would extend such taxes to the gross receipts from the sale, use or other consumption in this state of personal services.

Under the existing Personal Income Tax Law, the state imposes a graduated income tax on individuals according to 2 schedules, 1 for heads of households and 1 for other persons.

This bill would impose a 20% surtax on heads of households and other persons.

Under existing Bank and Corporation Tax Law taxes are imposed according to, or measured by, net income, at the general rate of 9%, and at a rate not to exceed 13% with regard to banks, and an additional tax is imposed on amounts of items of tax preference.

This bill would increase the general tax rate and the maximum tax rate to 14% and 18% respectively.

The bill would become operative only if the proposed constitutional amendment known as the Jarvis-Gann Initiative is approved by the voters.



Excerpt from SB 1569 - Rodda  
Legislative Counsel's Digest

The bill would take effect immediately as a tax levy, but its provisions relating to the increased taxes would become operative on July 1, 1979.

Vote: 2/3. Appropriations: yes. Fiscal committee: yes. State-mandated local program: no.





ATTACHMENT VI

M E M O R A N D U M:

TO: C. E. DIXON, County Administrator

FR: GERALD A. SHERWIN, County Counsel

*has.*

RE: PROPOSITION 13

In accordance with your request of February 22, 1978, I am transmitting herewith the comments of the County Counsel on Proposition 13, referred to herein as "Jarvis".

I. INTRODUCTION

Jarvis does not expressly repeal any existing law pertaining to local taxation. Thus, the existing systems of assessments, tax rates, and tax collection will remain in effect, subject only to any provisions of Jarvis which conflict with existing law. Jarvis is not truly a new system of tax laws, but rather is a significant limitation on existing laws. To place Jarvis in perspective, it should be read as though it contains the introductory clause "notwithstanding any other law."

II. DRAFTING DEFECTS

While Jarvis is reputed to be simple and direct, it is, in fact, a complex (albeit short) provision containing a number of uncertainties and ambiguities. For example, the phrase "full cash value" is used in Section 1(a), crudely defined in Section 2(a), and apparently rejected in Section 2(b) where the phrase "fair market value" is used. Under traditional rules of construction, "fair market value" would be assumed to mean something other than "full cash value", but it is uncertain as to whether any such distinction is intended in Jarvis. In Section 2(a), the term "assessed" is apparently used to mean "appraised" and the phrase "1975-76 tax levels" is of uncertain meaning. Section 1(b) excepts from Jarvis certain special assessments, while the basic restriction of 1(a) does not apply to any special assessments. Section 4 authorizes special taxes under certain circumstances, but it does not indicate what a special tax is. The second sentence of Section 1(a) (of our draft) is not a complete sentence in that it lacks a verb.



As a result of these and other drafting defects, it is in fact difficult to determine what is intended by much of the language of Jarvis.

Jarvis definitely introduces many uncertainties in the law which do not now exist. Presumably these uncertainties will only be finally resolved by litigation. Unfortunately, they are by nature not now subject to firm resolution.

### III. LEGAL DEFECTS

In addition to the drafting defects discussed above, Jarvis presents a number of constitutional issues which we believe, if properly presented to the courts, will ultimately result in Jarvis being held to be illegal and unenforceable. Among those issues are the following:

- A. IS JARVIS A VIOLATION OF THE EQUAL PROTECTION GUARANTEES OF THE UNITED STATES' CONSTITUTION IN THAT IT DISCRIMINATES AGAINST YOUNG PERSONS AND OTHERS WHO PURCHASE RESIDENCES AFTER JARVIS?

Under Section 2(a) of Jarvis, real property can be reappraised to current values when there is a change of ownership or when there is new construction. Other real property will be frozen to values established by the 1975-76 "tax bill", except for adjustments for inflation up to the 2% per annum. Taking into consideration the fact that the fair market value of residential properties in California have increased dramatically in recent years, and, indeed, since March 1, 1975, and assuming such a trend will continue at least to some degree, it is likely that, because of reappraisals, those who purchase homes after Jarvis will be paying a greater amount of taxes than their neighbors who have similar homes which were purchased before Jarvis. This aspect of Jarvis tends to discriminate against persons who will need to purchase residences after Jarvis and, in particular, is likely to have a harsh impact on young persons purchasing their first home and others who, because of change of jobs, must relocate. The fact that two persons owning similar homes in the same neighborhood will be required to pay different taxes for the same governmental services is likely to place a constitutional cloud over Jarvis.

It should be noted that given the nature of the market place, Jarvis could possibly reduce property values when a person is ready to sell, since the buyer will be assuming a tax responsibility greater than that of the seller and of the



buyer's prospective neighbors. Whether such reductions in price would offset the objection of governmental discrimination identified above is doubtful since either the seller or the buyer, or both, would be adversely affected by the discrimination.

- B. IS JARVIS A VIOLATION OF THE EQUAL PROTECTION GUARANTEES OF THE UNITED STATES' CONSTITUTION IN THAT PERSONS WILL BE PAYING AT DIFFERENT TAX RATES TO A TAXING AGENCY THAT PROVIDES THE SAME SERVICES TO ALL TAXPAYERS?

The ad valorem taxes required to support the existing programs of taxing agencies in San Joaquin County, such as the county, cities, school districts, etc., far exceed the ad valorem taxes which will be allowed under the 1% limitation of Jarvis. It has been suggested that Jarvis will result in a reduction of approximately 60% of ad valorem taxes presently available to units of local government. In this situation, the competing demands of the various units of local government for the limited tax dollars will be presumably resolved by Section 4653.4 of the Revenue and Taxation Code, a copy of which is attached. That section indicates that taxes will be shared by taxing agencies upon a pro rata basis, computed upon the tax rate of each unit of government.

The number of taxing agencies and their tax rates varies considerably throughout the County of San Joaquin. This is reflected by the fact that there are in excess of 800 tax code areas in the County. Because of this and because of the sharing provisions of Section 4653.4, persons in different parts of the County will be paying County taxes at different rates. Thus, a person owning property in one part of the County, for example, where there are few taxing entities with relatively low rates, will be paying County taxes at a greater rate than his fellow taxpayer who owns property in another part of the County where there are a large number of taxing agencies with high tax rates. Stated somewhat differently, a person who owns property where there are a number of taxing entities, and presumably a number of governmental services, will be paying County taxes at a lower rate than persons who own property elsewhere.

The above phenomena can, and probably will, exist in the case of any county, city, or governmental district where there is more than one tax code area. Thus, taxpayers will be





paying at different rates for the same services to the County, to a city, if any, and to special districts, such as school districts and fire districts. This concept is foreign to existing tax law and raises serious questions as to equal protection of the law. Stated succinctly, the issue is "can the law require a taxpayer in one portion of the County to pay County taxes at a greater rate than is being paid by other taxpayers in another part of the County receiving the same County services?"

Under Jarvis, taxpayers who have kept the number of taxing agencies in their area small in number and the rates of existing taxing agencies low will be penalized. Conversely, taxpayers who have encouraged or allowed the creation of a number of taxing agencies in their area or high tax rates will benefit.

- C. IS JARVIS A VIOLATION OF THE EQUAL PROTECTION GUARANTEES OF THE UNITED STATES' CONSTITUTION IN THAT PERSONS WHO ARE REQUIRED TO PAY PERSONAL PROPERTY TAXES WILL BE PAYING AT A GREATER RATE THAN PERSONS WHO PAY ONLY REAL PROPERTY TAXES?

Jarvis will not restrict the amount of taxes which can be raised by taxing entities through personal property taxes because Jarvis applies only to ad valorem taxes on real property. Presumably, taxing agencies will, subject only to the so-called S.B. 90 limitation (Revenue & Taxation Code, Sections 2201, et seq.) and any statutory limitation pertaining to the specific type of agency, be able to set the rates which will apply to personal property. Thus, it is likely that the tax rate at which owners of taxable personal property will pay will greatly exceed the tax rates at which owners of real property will pay under Jarvis. This state of affairs will tend to discriminate against commercial establishments which possess significant amounts of personal property and it may require such taxpayers to pay a disproportionate cost of government services. Again, an issue of equal protection of the law is raised by Jarvis.

- D. IS JARVIS A VIOLATION OF THE DUE PROCESS CLAUSE OF THE UNITED STATES' CONSTITUTION IN THAT IT WILL REMOVE FROM TAXPAYERS THE CHOICE OF HAVING THEIR PROPERTY SUBJECT TO AD VALOREM TAXES TO BE USED TO PROVIDE SPECIFIC GOVERNMENTAL SERVICES?

Traditionally, taxpayers have been free to decide through the election process whether they desire their property to be subject to additional ad valorem taxes for the purpose of supporting



specific governmental services. We do not mean to suggest that no taxes are now imposed without an election, but merely that the ballot box is now available if taxpayers choose to be subject to additional taxes. Such additional taxes, at least when approved by the voters, were thought to result in a better way of life and, in at least some cases, increased or sustained property values in the taxing district. For example, persons in a semi-rural area can now vote to pay for street lighting through ad valorem taxes. Under Jarvis, no such new tax is possible. Moreover, there will be no bond elections and no school override elections, which result in additional ad valorem taxes. General obligation bonds, one of the traditional means of financing capital improvements, such as courthouses, hospitals and school houses, will be eliminated. Even if 100% of the electors are in favor of an ad valorem tax, it cannot, as a matter of law, be imposed or collected under Jarvis.

Thus, under Jarvis, the voters of one entity, the State, will be prohibiting the voters of another entity, a city, a county, or a district, from deciding whether or not they desire an ad valorem tax for a specific governmental service. Such services can, and do, frequently affect property values. Residential property which is located in an area where there are limited fire protection services, flood control services, and health services tends to be of lesser value than properties that have such services in ample quantity and quality. Because the Jarvis amendment will deprive the local voter of the right to decide whether he or she desires to be subject to additional ad valorem taxes and because such deprivation may adversely affect property values, there may be an issue as to whether considerations of due process have been violated.

We recognize that Jarvis will allow special taxes upon vote of two-thirds of all registered voters. However, a cigarette or alcohol tax may not produce revenue in a small rural district in San Joaquin County and a local income tax may cost more to administer at the local level than it raises.

Quite aside from the issue of the costs of administration of a special tax, the requirement of a two-thirds vote of all registered voters means that a minority (one-third) can dictate to a clear majority. Indeed, under Jarvis, if one-third, plus one, of the registered voters refrain from voting, even if 100% of the persons who vote approve the special tax, the measure will fail. As a practical matter, the special tax provided for in Jarvis will not act as a substitute for an ad valorem tax approved by the voters under existing law.





IV. ANALYSIS OR COMMENTS OF SPECIFIC PROVISIONS OF JARVIS

The following constitute our comments or analysis of specific sections of Jarvis. We have refrained from commenting where the meaning or significance of the section appears to be obvious.

A. SECTION 1(a):

MAXIMUM AD VALOREM TAX

Jarvis establishes a maximum tax of 1% of full cash value for "any ad valorem tax on real property". It can be argued that the tax of each taxing agency is a separate tax to which the 1% limitation applies. However, we are apprised that the authors of the amendment clearly intend a single 1% limitation to apply collectively to all local ad valorem taxes on real property and it appears likely that the courts would so hold.

APPORTIONMENT

This section provides that the 1% tax is to be collected by the counties and apportioned "according to law". The only significant applicable law of which we are aware is contained in Section 4653.4 of the Revenue and Taxation Code, which provides as follows:

"Taxes shall be distributed to each fund on the basis of the tax rate established for the current secured roll on which they are charged and in the same proportion that the tax rate for each fund bears to the total tax rate applicable."

While the above-quoted section was enacted into law without reference to Jarvis, it would appear that it would apply unless and until the Legislature otherwise provides.

This section indicates that under Jarvis, it would be advantageous for a taxing agency to use the maximum tax rate available under S.B. 90 since its tax rate will be considered in making a pro rata distribution of tax funds among various competing taxing agencies.



While Section 1(a) refers solely to an apportionment of funds to "districts", it seems reasonable to assume that counties, cities, and county service areas are intended to be included among those taxing entities to whom funds should be distributed. The proponents of Jarvis have, at no time, suggested that cities, counties, or county service areas would be deprived of all ad valorem tax revenues.

#### PERSONAL PROPERTY TAXES

It should be noted that the restrictions of Jarvis apply only to ad valorem taxes on real property. Accordingly, it appears that Jarvis is not a limitation on existing personal property taxes. The legal significance of this distinction was discussed hereinabove under the title "Legal Issues".

#### PUBLIC UTILITIES ROLL

It appears that the Jarvis proposal was drafted without giving any consideration to the so-called public utilities' roll which is administered by the State Board of Equalization. (Article 13, Section 19, California Constitution). While Section 1(a) of Jarvis refers to "any ad valorem tax", the definition of "full cash value" in Section 2(a) refers solely to the County Assessor's evaluation. Thus, there is a question as to whether the 1% limitation is applicable to the public utilities' role. A strong argument can be made that, because of the definition of "full cash value" in Section 2(a) as "County Assessor's valuation", the limitation does not apply to the public utilities' role. However, I believe at this time that any projection as to how a court would rule on this issue would be pure conjecture.

#### MINERAL RIGHTS

Because of the definition of real property in Section 104, mineral rights are considered to be real property. That section reads, in part, as follows:

"'Real estate' or 'real property' includes:

. . .

"(b) All mines, minerals, and quarries in the land, all standing timber whether or not belonging to the owner of the land, and all rights and privileges appertaining thereto...."



Jarvis will have no peculiar affect upon the taxation of mineral rights, as distinguished from its affect upon the taxation of other items of real property.

#### EXEMPTIONS

The Jarvis amendment does not repeal any tax exemptions contained in the California Constitution and presumably would not affect them.

#### AGENCIES WHICH COLLECT THEIR OWN TAXES

It should be noted that some agencies, such as some reclamation and water districts, collect their taxes themselves, independently of the county tax collection process. Jarvis does not indicate how the 1% limitation will be coordinated or enforced in these situations. We presume county officials have only limited knowledge of, and control over, such taxing activities.

#### IMPACT ON MEDI-CAL AND SSI/SSP PAYMENTS BY COUNTY

The County is required to pay county shares to the State to support Medi-Cal and S.S.I./S.S.P. The controlling statutes provide for annual adjustments based upon increases or decreases in assessed valuation. See Welfare and Institutions Code Section 14150, and Welfare and Institutions Code Section 12400, copies of which are attached. An effective argument can be made that Jarvis, in reducing taxable assessed value of county-assessed property, should result in reduced Medi-Cal and S.S.I./S.S.P. contributions. Any dispute regarding this matter is likely to involve the issue as to whether Jarvis affects "modified assessed values" as defined in the subject sections.

#### B. SECTION 1(b):

##### 1% LIMITATION EXCEPTION

This section would exempt from the 1% limit ad valorem taxes of special assessments approved by the voters prior to July 1, 1978.

#### OUTSTANDING BONDS NOT APPROVED BY VOTERS

It should be noted that a number of bonds have been issued by special districts without prior approval by the voters, for example, 1911 Act Bonds and 1915 Act Bonds. Jarvis, on its face, hints, without so stating, that special assessments could not be collected for the purpose of paying interest and principal on these bonds, except within the 1% Jarvis limitation.





I have discussed this matter with an attorney who specializes in these types of bonds. He indicated that he has discussed this matter with well-regarded bond counsels, located in larger cities in the State, and that they indicate that Jarvis cannot be applied retroactively to bonds issued prior to Jarvis because to do so would interfere with firm contractual rights guaranteed by the bonds. This response, in my opinion, is unsatisfactory because any conflict between Jarvis and bond holders could only be firmly resolved by litigation which is likely to take some time. Thus, I feel it would be a mistake for the County to rely solely upon the alleged rights of bond holders when those rights have not been judicially ascertained. At this time, it would appear that the better approach to take in handling the issue of outstanding bonds would be to claim that they require special assessments which are based upon special benefits, not upon ad valorem taxes and that, thus, they are totally exempt from Jarvis. In the absence of exempting these bonds from the application of Jarvis, the burden of the 1911 bonds will fall upon the individual landowners in the special assessment districts (Streets and Highways Code, Section 5890) and the burden of the 1915 bonds may ultimately fall upon the general taxpayer in the County (Streets and Highways Code, Section 8809). Obviously, if general taxes are required to retire assessment bonds, there will be a reduction of already restricted general tax funds available for general governmental purposes.

#### FUTURE SPECIAL ASSESSMENTS

It is recognized that Section 1(b) of Jarvis exempts "special assessments" previously approved by the voters. However, nowhere in Jarvis are future special assessments barred or made subject to the 1% limitation of Jarvis.

An exception to a rule should not be allowed to increase the scope of the rule. Exceptions should, and normally do, reduce the scope of a rule. If an exception to a rule states, for example, that "this section does not bar act A", the rule does not necessarily bar all acts other than act A. To ascertain what acts are barred, it is necessary to read the rule itself. In the case of Jarvis, the rule (Section 1(a)) does not bar special assessments and the exception (Section 1(b)) should not be deemed to expand the scope of the rule.

Unfortunately, the above contention can only be finally resolved through litigation. In the mean time, it would appear appropriate to exercise caution in approving special assessments.



### FUTURE ELECTIONS

It should be further noted that this section of Jarvis will, in reality, prohibit future elections authorizing bonded indebtedness. Also, all S.B. 90 elections and school districts' "override" elections will be eliminated in reality under Jarvis. The elimination of these rights are significant because, even if 100% of people in a given taxing area are in favor of an ad valorem tax to support specific projects, they will be barred by law from voting into existence such a tax.

### USER CHARGES

It appears that Jarvis does not apply to user charges imposed by government. All activities of county government and special districts should be reviewed for the purpose of ascertaining whether user charges would be appropriate to allow the continuation of needed and desired services.

#### C. SECTION 2 (a) :

### 1975-76 VALUES

This section defines "full cash value" as the Assessor's valuation as shown on the 1975-76 tax bill, under "full cash value". The phrase "all real property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that evaluation" is ambiguous and uncertain. It appears that the most likely interpretation of this phrase is that if the Assessor had not appraised property for some time prior to the lien date for the 1975-76 tax year, that he may now go back and attempt to ascertain the "full cash value" of the property on that date. The task of doing this could conceivably present challenges to the Assessor.

### NEW CONSTRUCTION

Under this section, the appraised value of real property can be adjusted to the "full cash value" at the time of a change in ownership, or at the time of new construction. Some of the legal implications of this section are discussed hereinabove under the title "Legal Issues".





One of the issues presented by this provision is whether improvements or additions to existing structures would be considered as new construction and, if so, whether the current "full cash value" of the land and improvements could be established by the Assessor. Apparently, the answer is "yes".

#### RECORDING PRACTICES

It should be noted that this scheme of taxation will give considerable incentive to the purchasers and sellers of real property to avoid recording deeds and to resort to the use of a secret unrecorded contract of sale. Thus, under Jarvis, there is a risk that Jarvis may adversely affect the existing system of recording transfers of real property. Since the existing system of public notice pertaining to the title of real property plays a very important role in the real estate and the finance professions, the impact of Jarvis on those sectors could be significant.

#### D. SECTION 2 (b) :

##### ADJUSTMENTS FOR INFLATION

This section would authorize adjustments "from year to year" to cover inflation at a rate not to exceed 2% per annum. Since the rate of inflation in recent years has exceeded 2% per annum and since this trend is likely to continue, it is likely that the "real tax dollars" available to local government will be reduced from year to year.

##### RETROACTIVE APPLICATION

One significant issue which this paragraph raises is whether the 2% inflationary rate can be applied only after the first year of the application of Jarvis or whether the inflation factor can be immediately applied retroactively to 1975-76. While the use of the phrase "from year to year" may be interpreted to mean that Jarvis can only be applied in subsequent years, it appears that this issue will have to be resolved by the courts. Again, the outcome of such litigation is a matter of conjecture.

#### E. SECTION 4:

##### SPECIAL TAXES

This section purports to give authority to cities, counties, or special districts to impose special taxes, except ad valorem taxes, on real property. While the phrase "special



taxes" is not defined, it could be argued that any tax, other than an ad valorem tax on real property or sales tax on real property, is a special tax.

It appears likely that a court would hold that this provision of Jarvis is self-executing and that cities, counties, or special districts would have authority to impose such taxes upon approval of the voters, without further authorization from the Legislature.

The significance of the requirement of a vote by two-thirds of the electors and potential problems in administering special taxes is discussed hereinabove, under the title "Legal Issues".

V.        THE WILLIAMSON ACT

The California Constitution (Article XIII, Section 8) and the Williamson Act (Government Code, Section 51200, et seq.) provide for a method of taxing certain open space lands which are subject to enforceable restrictions. Revenue and Taxation Code, Section 421, et seq., sets forth the method of valuing such lands. Basically, it provides that the Assessor should not consider sales data when assessing lands, but rather should apply a capitalization of income method.

It appears that under Jarvis, the Assessor would be required to assess Williamson Act lands under the capitalization method; however, he would then be required to apply the one percent limitation of Jarvis. Thus, while the Williamson Act does not allow the Assessor to appraise land through the use of sales data, Jarvis will require him to refer to such data in order to apply the Jarvis limitation. His failure to do so, would result in Williamson Act lands being taxed at a greater rate than other lands, a result obviously contrary to the intent of Jarvis and the Williamson Act.

While the County may be faced with claims by the Williamson Act owners that their contracts were terminated by operation of law upon the passage of Jarvis, it is our preliminary determination that that will not be the case. While the doctrine of commercial frustration may terminate a contract in cases of extreme hardship (20th Century Lites, Inc. v. Goodman, 64 C.A. 2d Supp. 938 (1944)), under California



law, laws or other governmental acts that make performance of a contract unprofitable do not excuse the duty to perform the contractual obligations (Rose v. Long, 128 C.A. 2d 824, 827 (1954)).

VI. PERTINENT MATTERS NOT COVERED EXPRESSLY BY JARVIS

While Jarvis contains a specific limitation of tax revenues, it does not address many pertinent issues which must be addressed as a result of that limitation. For example, counties presently have numerous financial obligations which are presumably legally enforceable, such as contractual obligations to contractors, suppliers and employees. In addition, there are statutory duties to pay to the state county shares for such items as Medi-Cal and S.S.I./S.S.P. (these items equal almost one-half of revenue presently raised by ad valorem taxes). Finally, there are numerous programs which the County is mandated to carry out by statutory direction, such as general relief, court systems, probation services, public assistance, certain medical services, sheriff services, and other programs. In fact, few of the County services presently provided are purely discretionary.

The elimination of discretionary services in and of itself is not likely to bring County expenditures within the limitation of Jarvis. That being the case, it will be necessary to eliminate some services which the County is legally obligated to provide.

What criteria will be used to determine which mandated or legally obligated services will be eliminated? Who will select the criteria? Jarvis does not provide the answer. What legal consequences will the County and its taxpayers suffer as a result of eliminating such services? Jarvis does not provide the answer. When litigation is filed as a result of the elimination of mandated services, how will the County effectively defend itself? How will it pay the judgments when it fails to comply with the law? Jarvis does not provide the answer. When a taxpayer presents himself or herself and demands service to which he or she is legally entitled, or demands payment of a debt to which he or she is legally and morally entitled, how will that demand be satisfactorily met? Jarvis does not provide an answer.





One of the real dangers, in our opinion, of Jarvis is that it will provide an excuse to local government and to everyone connected with it for failing to produce. The explanation for deficiencies will, in many cases, be "Jarvis". In some cases, that excuse may be justified. But such an excuse will not make good government. It won't make efficient government. Like most excuses, it will be of limited or no value to the complainant.

While the above tends to be as philosophical, as it is practical or legal, it is included here for the purpose of illustrating that Jarvis is as significant for what it does not provide, as for what it does provide.

#### VII. LACK OF FLEXIBILITY UNDER JARVIS

If Jarvis proves to be unworkable, it can only be modified or repealed by the voters of the State of California at a general State election. Thus, even if the fears of the strongest critics of Jarvis prove to be well-founded, the Legislature or local voters will not be able to vote on or take meaningful remedial action, for neither will have that authority. Proposition 9 in 1974, pertaining to conflicts of interests, authorized the Legislature to play a role in carrying out the intent of the ballot measure in a remedial manner. (Government Code Sections 1012, 81013). Proposition 13 contains no counterpart.

Proposition 13 is admittedly a very significant proposal which, insofar as we are aware, is unprecedented in the history of local government in this country. If it does result in chaos in government in a manner contrary to the wishes of the electorate, neither the electorate nor its representatives will have a ready device for relief available. By the time remedial amendments are voted on and implemented, substantial, and possibly irremedial damage may have been done. It may take years for existing or proposed projects and services to recover.

Contrary to popular belief, the administration of local government is a complex and difficult business. Moreover, some of the work of local government can be effectively carried on only by highly trained technicians or professionals. If Jarvis becomes law, governmental agencies in other states, and also the private sector, will probably be prepared to raid California local government in search of its most able administrators, professions and technicians. The loss of the most able personnel, together with the adverse image which California will create in the labor market because of Jarvis, may be significant.



While it is clearly up to the electorate as to whether it desires Jarvis or not, if it selects Jarvis and changes its mind as a result of actual experience under Jarvis, it is likely that substantial damage will already have been done.

#### VIII. PREPARATION FOR JARVIS

Because it appears likely that Jarvis will be approved by the voters, it would seem appropriate for counties and cities to prepare for Jarvis. In addition to preparing for severe financial restrictions, preparations could also be made in other areas:

- a. New Legislation: The drafting of proposed legislation which will allow local government to live with Jarvis. Identifying areas where such legislation will be necessary or of assistance will be challenging in itself.
- b. Litigation: As indicated above, it is our opinion that litigation, properly pursued, will result in a reversal of Jarvis. The identification of proper plaintiffs and defendants will require some thought and care. If local government defaults in this area, it is possible that litigation pursued by persons with limited interests will be inartfully pursued, to the detriment of local government.

Full communication by cities and counties with each other on the above matters could be of considerable assistance.

#### IX. QUALIFICATION

This report was prepared within a restricted time frame and we trust it will be received in that context. While we have no reason to doubt the truth or accuracy of statements made herein, and, to the contrary, believe all statements to be truthful and accurate, the limitations of time prevented the type of thorough research, review and editing which one would customarily expect of a project of this nature.

Notwithstanding the above qualification, Jarvis definitely presents substantial legal issues which will ultimately have to be resolved by the electorate or the courts. Until such time, local government will face unprecedented problems and uncertainties. To the extent that this office can eliminate or ameliorate such problems and uncertainties, we will be pleased to assist. Unfortunately, to a large degree, the ultimate resolution of these matters appears to be outside the control of local government.





ed States and is exempt from taxation. Unless otherwise prescribed by the agency making such payments, the amounts received shall be distributed as prescribed in this chapter.

(Added by Stats.1951, c. 430, p. 1414, § 4.)

Derivation: Former section 4653.5, added by Stats.1944, 3rd Ex.Sess., c. 5, p. 32, § 3.

### § 4653.3 Blank

### § 4653.4 Taxes

#### Text of section until July 1, 1970

Taxes shall be distributed to the funds for which they were levied.

(Added by Stats.1951, c. 430, p. 1414, § 4.)

#### Text of section operative July 1, 1970

Taxes shall be distributed to each fund on the basis of the tax rate established for the current secured roll on which they are charged and in the same proportion that the tax rate for each fund bears to the total tax rate applicable.

(Added by Stats.1951, c. 430, p. 1414, § 4. Amended by Stats.1969, c. 96, p. —, § 1, operative July 1, 1970.)

#### Historical Note

Section G of Stats.1969, c. 96, provided: "This act shall become operative on July 1, 1970."

Derivation: Former section 4657, enacted by Stats.1939, c. 154, p. 1359, § 4657.

Pol.C. § 3816 (see Derivation under § 4651).

#### Library References

Taxation ⇨ 906.75.

C.J.S. Taxation §§ 1057, 1086.

### § 4653.5 Repealed by Stats.1951, c. 430, p. 1413, § 2

#### Historical Note

See Historical Note and Disposition Table under chapter heading preceding § 4651.

### § 4653.6 Delinquent penalties

Amounts paid as delinquent penalties shall be distributed to the county general fund.

(Added by Stats.1951, c. 430, p. 1414, § 4.)



# WELFARE AND INSTITUTIONS CODE § 12400

§§ 12352 to 12361. Repealed by Stats.1945, c. 1136, p. —, § 1

The repealed sections, added by Stats. 1973, c. 1216, p. 2912, § 37; amended by Stats. 1974, c. 75, p. 164, § 10; derived from former sections 12101 to 12108, added by 1965, c. 1784, pp. 4028, 4028, § 5; Stats.1971, c. 578, p. 1167, § 34; Stats.1972, c. 625, pp. 1159, 1160, §§ 1, 2; amended by Stats.1972, c. 1064, p. 1977, § 1; related to relative's responsibility for support of parents.

## ARTICLE 9. COUNTY CONTRIBUTION

### Sec.

12400. Counties' share of aid cost.

12401. Butte County [New].

*Article 9 was added by Stats.1973, c. 1216, p. 2915, § 37, urgency, eff. Dec. 5, 1973.*

*Operative date of Stats.1973, c. 1216, p. 2894, see note under § 10551.*

### § 12400. Counties' share of aid cost

(a) For the 1974-75 fiscal year, the county share toward the cost of state supplementary aid provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda .....	\$ 7,025,338
Alpine .....	4,947
Amador .....	38,704
Butte .....	670,251
Calaveras .....	77,181
Colusa .....	49,813
Contra Costa .....	3,476,380
Del Norte .....	114,534
El Dorado .....	250,723
Fresno .....	2,904,906
Glenn .....	68,691
Humboldt .....	720,054
Imperial .....	470,331
Inyo .....	72,876
Kern .....	2,185,196
Kings .....	388,717
Lake .....	200,967
Lassen .....	74,308
Los Angeles .....	46,323,058
Madera .....	461,328
Marin .....	579,850
Mariposa .....	20,298
Mendocino .....	353,434
Merced .....	707,640
Modoc .....	43,587
Mono .....	\$ 12,975
Monterey .....	923,764
Napa .....	415,106
Nevada .....	179,187
Orange .....	3,060,075
Placer .....	367,389
Plumas .....	73,565
Riverside .....	2,869,507
Sacramento .....	4,872,097
San Benito .....	73,296
San Bernardino .....	3,090,547
San Diego .....	5,367,654
San Francisco .....	9,468,300
San Joaquin .....	2,617,685

Asterisks \* \* \* Indicate deletions by amendment





# § 12400

## WELFARE AND INSTITUTIONS CODE

San Luis Obispo .....	539,061
San Mateo .....	2,258,583
Santa Barbara .....	1,077,275
Santa Clara .....	4,656,892
Santa Cruz .....	755,340
Shasta .....	588,992
Sierra .....	9,556
Siskiyou .....	180,859
Solano .....	691,459
Sonoma .....	1,118,960
Stanislaus .....	1,523,171
Sutter .....	213,560
Tehama .....	179,320
Trinity .....	36,021
Tulare .....	1,606,935
Tuolumne .....	113,202
Ventura .....	1,188,797
Yolo .....	462,791
Yuba .....	316,161
	<u>\$118,000,000</u>

For the fiscal year 1973-74, each county's share shall be 45 percent of the amount specified in the above table for the particular county. Beginning with the fiscal year 1975-76, the amount payable by each county in each subsequent year shall be determined by multiplying the 1974-75 base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base year.

(b) The term "modified assessed value" means the total of (1) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (2) the product of the \* \* \* sum of (i) the taxable assessed value of county-assessed property, (ii) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (iii) the sum of assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976-77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(c) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.  
(Added by Stats.1973, c. 1216, p. 2915, § 37, urgency, eff. Dec. 5, 1973. Amended by Stats.1974, c. 75, p. 168, § 11, urgency, eff. March 14, 1974; Stats.1976, c. 176, p. —, § 14, urgency, eff. May 24, 1976; Stats.1976, c. 426, p. —, § 1, urgency, eff. July 10, 1976; Stats.1976, c. 1238, p. —, § 1.)

Underline indicates changes or additions by amendment





# § 14143

## WELFARE AND INSTITUTIONS CODE

the person, shall be provided to any dialysis patient who is a resident of this state and is made eligible by the provisions of this article. After such dialysis patient has utilized such contractual or legal entitlements, the percentages of payment liability under Section 14142 shall then be applied to the remaining cost of dialysis. (Added by Stats.1974, c. 1531, p. 3440, § 1.)

Former section 14143 was repealed by Stats.1972, c. 1366, p. 2721, § 8, operative July 1, 1973.

Applicability of Stats.1972, c. 1366, to existing prepaid health plan contracts renewed prior to July 1, 1973, see note under § 14000.

### § 14144. Inapplicability of article to indigent dialysis patients otherwise eligible for Medi-Cal or federal benefits

The provisions of this article do not apply to indigent dialysis patients who are otherwise eligible for Medi-Cal or to any person eligible for renal dialysis under the provisions of Public Law 92-603 (H.R. 1)1.

(Added by Stats.1974, c. 1531, p. 3440, § 1. Amended by Stats.1976, c. 504, p. —, § 17, urgency, eff. Aug. 20, 1976.)

1 42 U.S.C.A. §§ 401 et seq.; 426.

Former section 14144 was repealed by Stats.1972, c. 1366, p. 2721, § 8, operative July 1, 1973.

Applicability of Stats.1972, c. 1366, to existing prepaid health plan contracts re-

newed prior to July 1, 1973, see note under § 14000.

Derivation: Stats.1974, c. 1531, p. 3440, § 3.

### § 14145. Repealed by Stats.1972, c. 1366, p. 2721, § 8, operative July 1, 1973

Prior to repeal, section 14145 was amended by Stats.1972, c. 32, p. 44, § 6, urgency, eff. March 23, 1972.

Applicability of Stats.1972, c. 1366, to existing prepaid health plan contracts renewed prior to July 1, 1973, see note under § 14000.

## ARTICLE 5. FISCAL PROVISIONS

Sec.

- 14150.3 Fiscal year base year for San Diego County; amount [New].
- 14150.5 Limitation on amount of county share; modified assessed value; reduction in amount due state by San Joaquin County [New].
- 14150.9 Inoperative.
- 14153. Costs of administration; monthly advancement of funds [New].
- 14159.1 Fiscal obligations of counties and state; uncollected county share amounts [New].

### § 14150. County share toward cost of care and administration

(a) For the 1971-72 fiscal year, the county share toward the cost of care and administration provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda	\$11,832,000
Alpine	5,000
Amador	156,000
Butte	952,000
Calaveras	215,000
Colusa	142,000
Contra Costa	6,018,000
Del Norte	123,000
El Dorado	359,000
Fresno	6,873,000
Glenn	187,000
Humboldt	1,200,000
Imperial	430,000
Inyo	241,000
Kern	5,233,000
Kings	740,000
Lake	132,000
Lassen	124,000

Underline indicates changes or additions by amendment





## WELFARE AND INSTITUTIONS CODE

§ 14150

Los Angeles	\$59,975,000
Madison	661,000
Martin	1,120,000
Mariposa	22,000
Mendocino	550,000
Merced	1,545,000
Modoc	120,000
Mono	31,000
Monterey	2,595,000
Napa	550,000
Nevada	425,000
Orange	10,395,000
Placer	913,000
Plumas	220,000
Riverside	5,160,000
Sacramento	8,627,000
San Benito	181,000
San Bernardino	6,462,000
San Diego	8,050,000
San Francisco	15,268,000
San Joaquin	7,390,000
San Luis Obispo	1,443,000
San Mateo	5,600,000
Santa Barbara	2,470,000
Santa Clara	9,400,000
Santa Cruz	1,335,000
Shasta	660,000
Sierra	13,000
Siskiyou	390,000
Solano	796,000
Sonoma	2,250,000
Stanislaus	2,630,000
Sutter	770,000
Tehama	290,000
Trinity	107,000
Tulare	2,845,000
Tuolumne	284,000
Ventura	2,776,000
Yolo	1,050,000
Yuba	750,000

The amount payable by each county in each subsequent year beginning with the 1972-73 fiscal year shall be determined by multiplying the base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base year. The term "modified assessed value" means the total of (a) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (b) the product of the \* \* \* sum of (1) the taxable assessed value of county-assessed property, (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

Asterisks \* \* \* Indicate deletions by amendment







For purposes of this subdivision commencing with the 1976-77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(b) As used in this section, the terms "eligible" and "eligibles" mean all persons who are public assistance recipients, and all persons eligible under Sections 14005.2, 14005.3, 14005.4, and 14005.6, and all persons eligible under Section 14005.7 who are certified for Medi-Cal coverage by the department.

(c) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

(d) Notwithstanding the provisions of Sections 5707, 5709.5, 5710, and 5714 of the Welfare and Institutions Code, payment for the costs of health care services provided under Part 2, Division 5, of the Welfare and Institutions Code, the Short-Doyle Act, shall be made in accordance with the provisions of this section.

(e) Notwithstanding the provisions of Section 7511 of the Welfare and Institutions Code, payment for the share of costs of health care services provided under Chapter 4, Division 7, of the Welfare and Institutions Code, shall be made in accordance with the provisions of this section.

(Amended by Stats.1972, c. 1329, p. 2660, § 1; Stats.1976, c. 176, p. —, § 15, urgency, eff. May 24, 1976; Stats.1976, c. 426, p. —, § 2, urgency, eff. July 10, 1976; Stats. 1976, c. 123S, p. —, § 2.)

**§ 14150.3 Fiscal year base year for San Diego County; amount**

Notwithstanding the provisions of Section 14150, the 1971-72 fiscal year base year amount under Section 14150 for San Diego County as its share toward the cost of care and administration under this chapter for the 1976-77 fiscal year and subsequent fiscal years shall be six million seven hundred sixty-three thousand dollars (\$6,763,000). The State Controller shall use the amount of six million seven hundred sixty-three thousand dollars (\$6,763,000) as the 1971-72 fiscal year base year amount in determining the amount payable by San Diego County in the 1976-77 fiscal year and subsequent fiscal years under Section 14150.

(Added by Stats.1976, c. 704, p. —, § 1.)

**Library References**

Social Security and Public Welfare  
C-241.

C.J.S. Social Security and Public Welfare  
§ 73.

**§ 14150.5 Limitation on amount of county share; modified assessed value; reduction in amount due state by San Joaquin County**

Notwithstanding the provisions of Section 14150, commencing with the 1974-75 fiscal year, no county shall be required to pay as the county share toward the cost of care and administration in any fiscal year under Section 14150 an amount which would exceed the amount produced by a property tax rate of sixty cents (\$.60) per one hundred dollars (\$100) of modified assessed value of property in the county for the 1974-75 fiscal year and for each subsequent fiscal year. The term "modified assessed value" means the total of (a) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (b) the product of the \* \* \* sum of (1) the taxable assessed value of county-assessed property, \* \* \* (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The as-

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